

Town of Amherst
Zoning Board of Appeals - Special Permit
DECISION

Applicant: Hawkins Meadow
352 Northampton Road, Amherst, MA 01002

Owner: Amherst Associates
342 North Main Street, West Hartford, CT 06117

Date Application filed with the Town Clerk: July 20, 2007

Nature of request: Petitioner seeks a Special Permit to install two identical signs under Sections 8.41 and 9.2 of the Zoning Bylaw.

Location of property: 352 Northampton Road, Map 13D, Parcel 18, R-N Zone.

Legal notice: Published in the Daily Hampshire Gazette on August 22 and August 29, 2007, and sent to abutters on August 21, 2007

Board members: Barbara Ford, Russell Frank and Jane Ashby

Submissions:

The applicant submitted the following documents:

- Enlarged Plan from Town of Amherst GIS Viewer, of the intersection of Northampton Road and the Hawkins Meadow driveway, showing the proposed location of the signs, untitled, undated;
- Site Plan from Town of Amherst GIS Viewer, at scale of 1" = 200';
- Catalog information from Light Process Company showing information on proposed lighting;
- A Management Plan giving details about proposed signs and lighting;
- A letter from Konover Residential, dated July 9, 2007, stating that Konover Residential Corporation will be responsible for the upkeep of the signs;
- A computer-generated image of the proposed signs, gateway structures and lighting;
- A computer-generated photograph of the site with the proposed signs shown in place.

Town of Amherst staff submitted the following documents:

- Special Permit ZBA 1963-9, issued to Abner Rosenberg, to construct five 16-unit, two-story garden-type apartment buildings;
- Special Permit ZBA 1964-50, issued to John F. Skibiski, Jr., extending permission for the erection of two temporary signs;
- Special Permit ZBA 92-61, to Konover Residential Corporation, to construct a 6-foot fence;
- A transmittal from the Fire Department, dated August 8, 2007, stating that there appears to be no significant impact on emergency services as a result of this proposal;
- A memorandum from the Planning Department, dated August 27, 2007, commenting on the application;

- A copy of Section IX, Sign Regulations, from the 1958 Amherst Zoning Bylaw;
- A copy of Section IX, Sign Regulations, from the 1964 Amherst Zoning Bylaw;
- A copy of an email from Jason Skeels, Town Engineer, dated September 13, 2007, commenting on the proposed placement of the signs.

First Site Visit: September 5, 2007

At the site visit the Board was met by Shirid Adams of Adams Signs. The Board observed the following:

- The Hawkins Meadow Apartments located along a heavily-traveled road (Northampton Road/Rte 9), surrounded by commercial, retail, restaurant and residential uses;
- The well-maintained exterior of the buildings and site;
- The proposed location of the signs, approximately 25 feet from the roadway edge, angled to be seen from vehicles traveling both east-bound and west-bound;
- The existing Hawkins Meadow sign and fence which will be removed when the new gateway structures and signs are installed.

Public Hearing: September 6, 2007

At the public hearing, Mr. Adams presented the petition. He presented the following information and made the following comments:

- He presented a new site plan showing the proposed signs 28 feet from the property line along Northampton Road and 28 feet from the access drive;
- He referred to the close-up computer-generated picture of the signs and stated that the signs will be oval in shape, and 3 feet x 8 feet in dimension, mounted on a structure consisting of a white fence and two brick columns;
- The oval signs will sit approximately 6 inches off the ground or grass;
- The first brick column will be less than 5 feet high and the second one will be approximately 3 feet high; each brick column will have a concrete foundation;
- The brick columns will be hollow and will be anchored to the concrete foundations by cement and rebar;
- The gateway structures will be similar to those at Look Park;
- The top of the oval signs will be less than 4 feet off the ground.

Ms. Ashby stated that the photo image looks nice but that she has safety concerns about the visibility of the signs. She is concerned that the signs will be located after the driveway, for drivers coming from both directions and that drivers will not see the signs until after they are past the driveway. Ms. Ashby suggested angling the signs differently.

Ms. Ford noted that the Board should look closely at the placement of the signs and she asked if there might be a way to make the signs more “readable”. Mr. Adams noted that the sign that is already there has been adequate to “pull people into the site”. Ms. Ashby noted that the existing sign is located before the driveway, not after it.

There was further discussion of the placement of the signs and whether they will be able to be read in time for drivers to turn in to the site.

The Board suggested that Mr. Adams install a “mock-up” of the signs, in place on the site, so that the Board members will be able to drive by and look at them. Mr. Frank commented that the proposed placement might be dangerous and that the Board needs to see what it will look like on the site.

Ms. Ford asked about the Management Plan. Mr. Adams stated that Konover Residential, the manager of the property, will be responsible for the up-keep of the sign and surrounding areas and that Mr. Adams will also take responsibility for maintenance of the signs. He introduced Mr. Van Dyck, the maintenance supervisor at Hawkins Meadow, who stated that the signs will be maintained in the same way that the property as a whole is maintained.

Ms. Ford asked who will clear the snow. Mr. Van Dyck stated that there has been no need to shovel under the existing sign, so he does not believe that it will be necessary to shovel under the new signs.

Mr. Frank asked about the proposed lights and where they will be placed. Mr. Adams stated that the lights will be installed underneath the signs, about 6 feet in front of them, shining up to illuminate the signs. He stated that the light will be diffused and will not be focused like a spot light. The lights will not shine into the eyes of the drivers.

Mr. Frank asked about clearing the snow from the lights during winter. Mr. Adams stated that the lights will be mounted 6 inches off the ground but that snow will be cleared from the lights when necessary.

Ms. Ashby noted that she was concerned that the light might shine between the slats of the picket fence and shine into the windows of the apartments. There was further discussion of the placement of the lights.

Ms. Ford suggested that the applicant consider downward facing lights. She noted that she was amenable to the signs. However the issues remaining to be resolved were the placement of the signs, the visibility of the signs from the road and the issue of light "spillage".

The Board agreed to hold another site visit, on the following Tuesday, September 11, 2007, to view a "mock-up" of the signs in place on the site.

Ms. Ford MOVED to continue the evidentiary portion of the public hearing. Mr. Frank SECONDED the motion. The Board VOTED unanimously to continue the evidentiary portion of the public hearing to September 18, 2007, at 7:30 p.m.

Second Site Visit: September 11, 2007

At the second site visit the Board was met by Shirid Adams of Adams Signs. In addition, Jason Skeels, the Town Engineer, was present to comment on safety issues related to the placement of the signs. The Board observed the following:

- The location of the "mock-ups" of the signs; Mr. Adams had installed mock-ups consisting of two posts with a sheet suspended between the posts in each of the two proposed sign locations;
- The manager of the apartment complex had moved the mock-ups to new locations;
- Mr. Adams showed the Board where he planned to install the signs, 28 feet from the edge of pavement of Route 9 and 28 feet from the edge of the driveway pavement;
- The Board noted the visibility of the mock-ups but expressed their concern that they were not placed exactly as they would be when installed;
- They asked Mr. Adams to bring site plans showing exactly where the signs would be located.

Continued Public Hearing: September 18, 2007

At the continued public hearing Mr. Adams again presented the petition. He submitted a new site plan showing a revised location for the signs. The new locations will be as follows:

- The inside columns of the gateway structures will be 18 feet from the edge of the driveway;

- The outside columns of the gateway structures will be 30 feet from the edge of the sidewalk along Route 9;
- The angle of the gateway structures will be 30 degrees off the edge of Route 9;
- The location of both structures will still be in front of the existing trees;
- There will be no glow from the lights into the buildings.

Planning Department staff, Christine Brestrup, reported that the front yard setback required for structures and fences over 6 feet high is 20 feet in the R-N (Residential Neighborhood) zone. The proposed setback of 30 feet from the sidewalk will be in accordance with the zoning setback requirements.

Mr. Adams reported that the general manager of the Hawkins Meadow Apartments moved the mock-ups of the sign/gateway structures from the original location and that the plan represents the location preferred by the general manager. He explained that the two gateway structures need to be in equivalent locations on either side of the driveway.

Ms. Ashby expressed concern that the sign/structures may be too far back from the road. Ms. Ford noted that as long as they can be seen and read they are not too far back. Ms. Ford confirmed with Mr. Adams that the taller pillar on each structure will be closest to the driveway and the shorter pillar will be on the outside, farther away from the driveway.

Mr. Adams stated that he will not be installing the lighting, but that an electrician would do that. Mr. Adams wants to have the lights shining up onto the signs, not down.

Ms. Ford expressed concern that the lights would spill beyond the sign and shine into the apartments. She stated that the Board may wish to require a more detailed lighting scheme as a condition of the permit.

Ms. Ashby also expressed concern about the lights shining through the slats of the fence and stated that the trees will not block the light because the foliage is above the level of the sign. Mr. Frank noted that the trees will not always have leaves on them.

Mr. Adams assured the Board that the lights will be directed at the signs only.

Ms. Ford stated that the Board may want a solid fence so that light will not leak through the fence. Mr. Adams offered to install a neutral panel on the back of the picket fence to block the light.

Ms. Ford expressed concerns about visibility and readability of the signs. Mr. Adams stated that the manager of Hawkins Meadow Apartments had chosen the font which is known as "Chancelaresca". The manager believes that there are not very many people who are looking for the apartments who have never been there before. Ms. Ford commented that those looking for the apartments might use other landmarks to find the site.

Ms. Ashby noted that the current sign is not legible and that the proposed sign will be an improvement over the existing sign. She commented that the "Goudy" font would have worked better than "Chancelaresca".

There were no comments from the public on this application.

The Board discussed the proposed signs. Mr. Frank asked what exactly comprises the sign. Does it include the supporting structure? The Board discussed this issue with the Building Commissioner, Bonnie Weeks, with Mr. Adams, the applicant, and with Planning Department staff, Ms. Brestrup. The Board

determined that the gateway structures could be built on their own, in the proposed location, with no Special Permit from the Zoning Board of Appeals. The gateway structures will meet the front setback requirements. In addition, the oval sign oval panels will be separate and will be made of completely different materials from the gateway structures. The oval sign panels will be removable from the structures. Therefore the Board concluded that the oval sign panels would be considered to be the signs and that the gateway structures would be considered to be separate structures.

Ms. Ford stated that she could support the application but she expressed concern about the proposed light-blocking backing, the lighting and the placement of the signs. Mr. Frank and Ms. Ashby stated that they could support the application.

Ms. Weeks noted that there could be a condition stating that any changes to the sign or the lighting could be brought back to the Board at a public meeting.

Mr. Adams commented that the oval sign panels will be carved.

Ms. Ford asked that Mr. Adams convey to the manager of the apartments the Board's opinion that the sign should be more forceful, definitive and readable. She also asked about the colors.

Mr. Adams stated that the colors will be Benjamin Moore colors: Dark Burgundy and Classic Hunter Green.

Mr. Frank MOVED to close the evidentiary portion of the public hearing. Ms. Ashby SECONDED the motion. The Board VOTED unanimously to close the evidentiary portion of the public hearing.

Public Meeting – Discussion

At the public meeting the Board discussed its findings and the conditions that would be imposed if the Board were to approve the application.

Public Meeting – Findings:

Under Section 9.22 of the Zoning Bylaw, Non-Conforming Uses and Structures, the Board found that the proposed signs will not be substantially different in character or in their effect on the neighborhood or on the property in the vicinity and will not be substantially more detrimental to the neighborhood than the pre-existing non-conforming sign. The Board noted that the proposed signs will be more legible than the existing sign.

Under Section 8.41 of the Zoning Bylaw, Non-Conforming and Temporary Signs, the Board found that these signs will act as directional or identification signs and that they will serve the public convenience because they will help drivers to find the property, they will not endanger the public safety because they will be out of the line of sight for drivers entering and exiting the property, and they will be of such size, location and design as will not be detrimental to the neighborhood because the signs are tastefully designed and will be similar to other signs in the neighborhood, such as the Greenleaves sign, the Windfield sign and the Marriott Courtyard sign that direct the public into the associated sites.

Under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, the Board found that:

10.380 & 10.381 – The proposal is suitably located in the neighborhood in which it is proposed, and is compatible with surrounding uses, because it will help to identify the apartment complex and it is similar to other signs in the neighborhood such as the Greenleaves sign, the Windfield sign and the Marriott Courtyard signs, all of which are similarly located with respect to entry drives.

10.382, 10.383, 10.385 and 10.387 – The proposal would not constitute a nuisance, protects the adjoining premises against detrimental or offensive uses, and would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians because the gateway structures and signs will be installed well back from the roadway edges and intersections and will not impede the line of sight for those entering and exiting the property. In addition a light blocking backing will be installed to prevent light from spilling through the slats in the picket fence and a condition of the permit will require that the lights be focused on the sign only and will not spill beyond the sign.

10.384 – Adequate and appropriate facilities would be provided for the proper operation of the proposed use because the structures and signs will be properly located and maintained.

10.386 – The proposal ensures that it is in conformance with the Sign regulations of the Bylaw because, although the signs are larger than signs normally allowed in the R-N zone, they have been reviewed and approved under Section 8.41 of the Zoning Bylaw as a directional or identification sign and under Section 9.22, as signs for a non-conforming use. In addition, the top of the sign oval will be less than 4 feet from the ground, in accordance with Section 8.103 of the Zoning Bylaw.

10.392 – The proposal provides adequate landscaping because the site is already well-landscaped and maintained.

10.393 – The proposal provides protection of adjacent properties by minimizing the intrusion of lighting because a condition of the permit will require that the light be focused on the signs only and will not spill beyond the structures and signs and a light blocking backing will be installed behind the picket fence.

10.395 – The proposal does not create disharmony with respect to the terrain and to the use, scale and architecture of existing buildings in the vicinity because the design of the structures and signs are compatible with the architecture of the apartment buildings.

10.398 – The proposal is in harmony with the general purpose and intent of the Bylaw because they will promote the health, safety, convenience and general welfare of the inhabitants of the Town of Amherst.

Public Meeting – Zoning Board Decision

Ms. Ashby MOVED to approve the conditions, as drafted. Mr. Frank SECONDED the motion. The Board VOTED unanimously to approve the conditions as drafted.

Mr. Frank MOVED to approve the application, with conditions. Ms. Ashby SECONDED the motion.

For all the reasons stated above the Board VOTED unanimously to grant a Special Permit under Sections 9.22 and 8.41 of the Zoning Bylaw to install two identical signs, as applied for by Hawkins Meadow, at 352 Northampton Road, (Map 13D, Parcel 18, R-N Zone), with conditions.

BARBARA FORD

RUSSELL FRANK

JANE ASHBY

FILED THIS _____ day of _____, 2007 at _____,
in the office of the Amherst Town Clerk _____.

TWENTY-DAY APPEAL period expires, _____ 2007.

NOTICE OF DECISION mailed this _____ day of _____, 2007
to the attached list of addresses by _____, for the Board.

NOTICE OF PERMIT or Variance filed this _____ day of _____, 2007,
in the Hampshire County Registry of Deeds.

Town of Amherst
Zoning Board of Appeals

SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit under Sections 9.22 and 8.41 of the Zoning Bylaw, to install two identical signs, as applied for by Hawkins Meadow, at 352 Northampton Road, (Map 13D, Parcel 18, R-N Zone), with the following conditions:

1. The signs shall be located and installed in accordance with the site plan submitted to the Board and approved at the public meeting on September 18, 2007.
2. The structures, consisting of brick columns and picket fences, and the signs shall be built in accordance with the drawing submitted to the Board and approved at the public meeting on September 18, 2007. If there are any changes in the design of the structures or proposed sign details the changes shall be submitted to the Board for review and approval at a public meeting.
3. A light blocking backing shall be installed on the rear side of the picket fences to prevent light from spilling beyond the signs and structures.
4. Lighting for the signs shall be designed and installed as shown on the drawings and catalogue information approved at the public meeting on September 18, 2007. Lights shall be focused on the signs only and shall not spill upward or beyond the confines of the signs. Shielding shall be installed on the top and/or sides of the proposed lighting if needed to properly confine the path of light. Any changes in the proposed lighting plans shall be submitted to the Board for approval at a public meeting.
5. The structures, signs and surrounding areas shall be regularly maintained and repaired as necessary by the management company, Konover Residential, or its successor, in accordance with the letter from Konover Residential, dated July 9, 2007.

BARBARA FORD, Chair
Amherst Zoning Board of Appeals

DATE